

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA**

Roanoke Division

KELVIN E. BROWN, #207902,

Plaintiff,

v.

Civil Action No. 7:09cv00180

TRACY S. RAY, *et al.*,

Defendants.

MOTION TO FILE DOCUMENT UNDER SEAL

COME NOW the Defendants Tracy S. Ray, Warden, L. Fleming, Major, and T. Pease, Mailroom Supervisor, (hereinafter collectively referred to as "Correctional Defendants"), by counsel, pursuant to Local Rule XIII.A.1, and respectfully move this Honorable Court for an order allowing the Correctional Defendants to file a document under seal for the following reasons:

- (1) The document to be sealed is a section of a newspaper called "The Final Call" which has been denied to plaintiff and is the subject of the litigation. The excerpt is a section which appears in each of the issues withheld.
- (2) The issues in question of The Final Call express racial separatism. The paper, which has been permitted in the past, added a section outlining certain content which Correctional Defendants believe to incite racial hatred and division and would be detrimental to the discipline of the facility and the offender's rehabilitative efforts. Pursuant to the security policy regarding publications, Correctional Defendants determined this

publication with that particular section constituted a threat to security and withheld the publication from plaintiff. Filing the document under seal is necessary to provide this Court with the content without causing the very breach of security that Correctional Defendants are attempting to avoid.

(3) The Defendants request that this document be sealed until the plaintiff is released from incarceration.

Wherefore, the Defendants respectfully request this Court grant their motion and enter an order allowing the attached document to be sealed.

Respectfully Submitted,

TRACY S. RAY,
L. FLEMING
T. PEASE

By _____/s/ _____
Counsel

Richard C. Vorhis, SAAG, VSB #23170
Attorney for Defendants
Office of the Attorney General
Public Safety and Enforcement Division
900 East Main Street
Richmond, Virginia 23219
Phone: 804-786-4805
Fax: 804-786-4239
rvorhis@oag.state.va.us

CERTIFICATE OF SERVICE

I hereby certify that on the 5th day of October, 2009, I will electronically file the foregoing with the Clerk of Court using the CM/ECF system, which will then send a notification of such filing (NEF) to the following: N/A

And I hereby certify that I will mail the document by U.S. mail to the following non-filing user:

Kelvin E. Brown, #207902
Red Onion State Prison
Post Office Box 1900
Pound, Virginia 24279

/s/

Richard C. Vorhis, SAAG, VSB #23170
Attorney for Defendants
Office of the Attorney General
Public Safety and Enforcement Division
900 East Main Street
Richmond, Virginia 23219
Phone: 804-786-4805
Fax: 804-786-4239
rvorhis@oag.state.va.us